

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

**CHRISTIAN SANCHEZ, on behalf of
himself and all others similarly situated,**

Plaintiffs,

v.

NUTCO, INC.

Defendant.

:
:
:
:
:
:
:
:
:
:

Case No. 1:20-cv-10107-JPO

**DEFENDANT’S NOTICE OF MOTION AND
MOTION TO DISMISS PLAINTIFF’S SECOND AMENDED COMPLAINT**

PLEASE TAKE NOTICE that Defendant, Nutco, Inc., (“Nutco”), requests that this Court pursuant to Fed. R. Civ. P. 12(b)(1), 12(b)(2), and 12(b)(6) dismiss this action for lack of subject matter jurisdiction, lack of personal jurisdiction, mootness and failure to state a claim upon which relief can be granted. For reasons set forth in the accompanying Brief in Support, this Court should dismiss with prejudice Plaintiff’s Second Amended Complaint.

Dated: May 24, 2021

By: /s/ Elyse W. Germack
Elyse W. Germack
(MI Bar No. P71778 – *Pro Hac Vice*
Pending)
2140 Wilkins Street
Detroit, MI 48207
Cell: (248) 227-2810
germack.elyse@gmail.com

Attorney for the Defendant
NUTCO, INC.

Defendant certifies that this motion was served on Plaintiff through his attorney Joseph Mizrahi of Cohen & Mizrahi LLP via ECF on March 9, 2021.

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that on May 24, 2021, the foregoing was caused to be filed with the Court by electronic filing protocols, and that same will therefore be electronically served upon all attorneys of record registered with the Court's CM/ECF system.

By: /s/ Elyse W. Germack
Elyse W. Germack (MI Bar No. P71778, *PHV Pending*)